

22.10.2001

BIDSF-01/04

FRAMEWORK AGREEMENT

between

SLOVAK REPUBLIC

and

EUROPEAN BANK

FOR RECONSTRUCTION AND DEVELOPMENT

**Relating to the Activities of the Bohunice International Decommissioning Support
Fund in Slovakia**

Dated 17 October 2001

Final Draft

Subject to approval by the Assembly of Contributors of the Fund.

PREAMBLE

WHEREAS the Slovak Republic declares that the accomplishment of the objectives of this Agreement is in the spirit of the co-operation between the Slovak Republic and the European Communities pursuant to Articles 80 and 98 of the European Association Agreement concluded between the European Communities and their member states, on the one hand, and the Slovak Republic, on the other hand.

WHEREAS in 1999, in pursuit of its policy to accede to the European Union, the Slovak Republic undertook a firm commitment to final shutdown Bohunice Nuclear Power Plant Units 1 and 2 (herein called Bohunice NPP-V1,,) by certain dates specified in section 5.1.3 of the Slovak Energy Policy through adoption of Resolution No. 801/99 of the Slovak Government of 14 September 1999;

WHEREAS the Slovak Republic, apart from making these specific commitments for final shutdown of Bohunice NPP-V1, has been drawing up specific plans/strategies for the decommissioning of Bohunice NPP-V1, notably the so-called "Preliminary Decommissioning Programme";

WHEREAS the Government of the Slovak Republic is responsible for the implementation of the commitments and related programmes for final shutdown of Bohunice NPP-V1;

WHEREAS the public administration and respective specialised agencies of the Slovak Republic are responsible to act in the execution of implementation steps and the operator of the Bohunice NPP-V1 is charged with the execution of the Bohunice NPP-V1 shutdown and the elaboration of pre-decommissioning and decommissioning projects in line with the country's shutdown commitment;

WHEREAS the parties recognise the importance of the commitment to final shutdown of Bohunice NPP-V1;

WHEREAS pursuant to the Rules of the Bohunice International Decommissioning Support Fund (herein called the "Fund") the European Bank for Reconstruction and Development (herein called the "Bank") has agreed to administer grant funds to be made available by the Contributors of the Fund to finance or co-finance, through grants, the preparation and implementation of selected projects concerning the provision of technical assistance and the acquisition, installation and placing into operation of equipment necessary to support the final shutdown with the aim of subsequent decommissioning of the Bohunice NPP-V1;

WHEREAS it is recognised by the Slovak Republic that the Fund has been established to assist the Slovak Republic with the provision of grants, including for the funding of selected Projects in the pre-decommissioning phase, while the whole decommissioning process will take many decades and will then need to be financed primarily by the Slovak Republic;

WHEREAS it is recognised by the Slovak Republic that the provision of grants through the Fund has to be complemented by Slovak resources (e.g. through cash and in-kind contributions) in all stages of the implementation of the Projects;

WHEREAS it is recognised by the Slovak Republic that the Bank acts solely in its capacity of administrator of funds for and on behalf of the Contributors to the Fund and that this activity is independent from its role as a financial institution supporting investment projects consistent with sound banking principles;

WHEREAS the Slovak Republic and the Bank wish to establish a framework to govern the operation of the Fund and the provision of grants for the implementation of the Projects in the Slovak Republic;

NOW, THEREFORE, THE SLOVAK REPUBLIC and the EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT acting as administrator of grant funds provided by the Fund hereby agree as follows:

Section 1. Grants and Slovak Resources

(a) The Bank shall provide financing on a grant basis from the resources of the Fund (herein called the "Grants") to finance or co-finance the implementation of Projects in support of decommissioning work at Bohunice NPP-V1 and measures in the energy sector which are consequential to the decision taken by the Slovak Republic to final shutdown Bohunice NPP-V1 through the provision of technical assistance and the acquisition, installation and placing into operation of equipment.

(b) The provision of Grants will be made in accordance with the Rules of the Fund and shall be subject to the availability of funds contributed to the Fund and to approval by the competent organs of the Fund.

(c) Grants will be made available to the Operator of Bohunice NPP-V1 and to other entities relevant to the achievement of the purposes of the Fund (herein called the "Recipient(s)").

(d) The provision of Grants from the resources of the Fund shall be complemented by Slovak resources. Such resources will be contributed in cash, in-kind, or otherwise in all stages of the implementation of the Projects. The Slovak resources will be specified by reference to the various components of the Projects and will be determined in the Grant Agreements entered into pursuant to Section 2.

Section 2. Grant Agreements

(a) All Grants provided under Section 1 shall be subject to the conclusion of Grant Agreements between the Bank on behalf of the Fund and the relevant Recipient and shall be implemented in accordance with the terms and conditions set forth or referred to in the relevant Grant Agreements.

(b) Grant Agreements shall:

- (i) be concluded directly between the Bank and the Recipient;
- (ii) make specific reference to this Framework Agreement; and
- (iii) be subject to the Standard Terms and Conditions for Fund Grants.

(c) In the event of conflict between this Framework Agreement and any Grant Agreement the provisions of this Framework Agreement shall prevail to the extent necessary to remove the conflict.

Section 3. Implementation of the Projects

(a) The implementation of each Project shall be managed, co-ordinated and monitored, by a Project Management Unit (herein called the "PMU") established by the Recipient. The PMU shall establish adequate organisational structures to perform specific engineering, procurement or other services. The PMU shall be staffed with consultants engaged in accordance with the applicable procedures of the Bank and the Fund and with suitably qualified specialists provided by the Recipient. The relevant Grant Agreement shall contain the specific provisions relating to the responsibilities, establishment, operation and funding of the PMU.

(b) The goods, works and services, including consultants' services, required for the Projects and to be financed out of the proceeds of any Grant shall be procured in accordance with the Rules of the Fund and the specific provisions of the relevant Grant Agreements.

(c) Duly authorised representatives of the Bank shall be authorised from time to time to inspect the records and accounts relating to any Project and to make copies thereof and to audit and examine such records and accounts and the use of any goods and services provided under this Framework Agreement and the relevant Grant Agreement.

Section 4. Project Implementation Support Undertakings

(a) The Slovak Republic shall ensure full and punctual performance by each Recipient owned or controlled by the Slovak Republic of its respective obligations under the Grant Agreements.

(b) Without limitation to the obligations set forth in paragraph (a) of this Section, the Slovak Republic shall:

- (i) take or cause to be taken all action, including the timely provision of funds, facilities, services and other resources, necessary or appropriate for the implementation of the Projects, and to enable each Recipient to perform its respective obligations in accordance with the provisions of the Grant Agreements;
- (ii) not take or permit to be taken any action which would prevent or interfere with such performance;

(iii) ensure the prompt review and handling of applications for all licences, permits, approvals and the prompt customs clearances necessary according to relevant national regulations of the Slovak Republic for the prompt and efficient implementation of all Projects;^(*)

(iv) ensure that the Slovak Nuclear Safety Regulator (herein called "UJD") and other authorities in charge of the licensing and certification of the Projects are provided with established policies and regulations and sufficient qualified staff resources, facilities and funds with which to be assured that the regulatory process scheduled in the Projects will be performed; and

(v). ensure that, in case of termination or bankruptcy of a Recipient which is a state owned entity or state controlled company, another company or entity satisfactory to the Bank takes over its obligations under the respective Grant Agreement, and in case of privatisation of a Recipient which is a party to the Grant Agreement to ensure that the privatisation contract provides that the privatised company will continue to exercise all rights and perform all its obligations under the Agreement, as well as in case of transfer by the Recipient of its rights and obligations under the Grant Agreement to another entity, ensure that such entity will continue to exercise those rights and perform those obligations.

(c) the Slovak Republic shall take all necessary measures for the implementation of the Energy Policy to fulfil the commitment of the Slovak Republic to final shutdown of Bohunice NPP-V1 Units 1 & 2 in 2006 and 2008 respectively.

Section 5. Joint Committee

(a) The Slovak Republic and the Bank shall establish a Joint Committee in order to exchange information on and discuss the implementation of this Framework Agreement, and in particular:

- (i) progress achieved in the implementation of the Projects;
- (ii) obstacles and problems encountered in the implementation of project components;
- (iii) the timeliness and adequacy of Slovak contributions provided for the implementation of the Projects; and
- (iv) other matters relevant to the implementation of the Projects.

(b) The Joint Committee will be composed of competent senior representatives delegated by the Slovak Government, the Recipient (s), the Slovak Nuclear Regulatory Authority, other entities involved in the implementation of the Projects and the Bank. The Joint Committee may invite to participate in the work of the Joint Committee representatives from governmental and other entities involved in matters pertaining to this Framework Agreement.

(c) The Joint Committee will agree the rules and procedures governing its activities.

^(*)Role of the Slovak Nuclear Safety Regulator is specifically addressed in (iv) below.

Section 6. Taxation

- (a) Taxes, customs and import duties shall not be financed from Grant resources.
- (b) Imports under supply contracts concluded by the Recipients of Grants and financed with funds from Grants shall be allowed to enter the territory of the Slovak Republic without being subject to customs duties, import duties, taxes or fiscal charges having equivalent effect.
- (c) The Slovak Republic shall ensure that the imports concerned will be released from the point of entry for delivery to the contractor as required by the provisions of the contract and for immediate use as required for the normal implementation of the contract, without regard to any delays or disputes over the settlement of such duties, taxes or charges.
- (d) Contracts for goods or services provided by Slovak or external firms, financed through Grants shall not be subject to existing or future value added tax, documentary stamp or registration duties or fiscal charges having equivalent effect, in the territory of the Slovak Republic.
- (e) Natural and legal persons, including expatriate staff, executing technical cooperation contracts financed through Grants shall be exempted from business and income tax in the territory of the Slovak Republic.
- (f) Personal and household effects imported for personal use by natural persons (and members of their immediate families), other than those recruited locally, engaged in carrying out tasks defined in technical cooperation contracts financed through Grants shall be exempt from customs duties, import duties, taxes and other fiscal charges having equivalent effect, the said personal and household effects being either re-exported or disposed of in the state in accordance with applicable regulations in force in the territory of the Slovak Republic after termination of the contract.
- (g) Natural and legal persons importing professional equipment for the purposes of Projects financed through Grants, shall, if they so request, benefit from the system of temporary admission as defined by Slovak legislation in respect of said equipment.

Section 7. Indemnity for Nuclear Damage

Section 7.1. Indemnity in Favour of the Bank

- (a) The parties agree that:
 - (i) the entity designated as the operator of Bohunice NPP-V1, shall bear exclusive liability in accordance with the provisions of the Vienna Convention on the Civil Nuclear Liability and applicable law for any nuclear damages caused by the Project Facilities or in connections with the implementation of the Projects and its financing,

(ii) the Bank shall not be liable with regard to claims related to activities undertaken pursuant or in connection with this Framework Agreement,

(iii) if the Bank becomes subject to legal actions, claims, losses, liabilities, expenses or damages in connection with a nuclear incident at Bohunice NPP-V1, than the indemnity provisions set out in Section 7.1.(b) shall apply.

(b) With the exception of claims for damage or injury against individuals arising from their premeditated actions and gross negligence, the Slovak Republic irrevocably guarantees that it shall keep the Bank, its employees, agents and sub-contractors, both during and after the term of this Framework Agreement, fully and effectively indemnified and held harmless from and against any and all actions, claims, losses, liabilities, expenses or damages, whether in or outside of the Slovak Republic in connection with the implementation of the Projects or any relevant Grant Agreement to the extent such actions, claims, losses, liabilities, expenses or damages have arisen in connection with a nuclear incident at Bohunice NPP-V1, including at the Project Facilities together with buildings, facilities or installations connected therewith or auxiliary thereto and located at the site of the Bohunice NPP-V1.

Section 7.2. Indemnity in Favour of Suppliers

The Slovak Republic shall provide, upon request, the contractors, consultants and suppliers of goods, works or services financed through the Grant with indemnities substantially in the form of the agreement in Schedule 1, including with respect to activities connected to the implementation of the Projects, the Project Facilities and the Bohunice NPP-V1.

Section 8. Agency and Disclaimer

(a) The Bank is not an agent or trustee of, and shall not have any fiduciary relationship with, the Government of the Slovak Republic or any other person or entity.

(b) The Bank does not accept any responsibility whatsoever with regard to claims related to activities undertaken pursuant to or in connection with this Framework Agreement.

(c) The Slovak Republic acknowledges and agrees that:

(i) the Bank acts solely in its capacity of administrator of funds for and on behalf of the Contributors to the Fund and that this activity is independent from its role as a financial institution supporting investment projects.

(ii) any decision relating to the implementation of the Projects, the safe design, construction and operation of the Project Facilities and the operation, final shutdown and subsequent decommissioning of Bohunice NPP-V1 will be made exclusively by the competent Slovak authorities and the entity designated as the operator of the Project Facilities.

(iii) the entity designated as the operator of the Project Facilities and the Bohunice NPP-V1 shall bear exclusive liability in accordance with the provisions of the Vienna Convention and applicable law for any nuclear damage caused by the Project Facilities and the Bohunice NPP-V1 or in connection with the implementation of the Projects and its financing and that the Bank shall not be liable with regard to claims related to activities undertaken pursuant to or in connection with this Framework Agreement.

Section 9. Notices

Any notice or request required or permitted to be given or made under this Framework Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it has been delivered by hand, mail, cable, telex or telefax to the party to this Framework Agreement to which it is required to be given or made, at the address specified below or at any other address as the party shall have specified in writing to the party giving the notice or making the request.

For the Slovak Republic:

Ministry of Economy
Attn. Lubomir Harach, Minister
Mierova 19
827 15 Bratislava

Telephone: ** 421/2/48587002
 ** 421/2/48587003
Telefax: ** 421/2/43423949

For the Bank:

The European Bank for Reconstruction and Development
Attn. Operations Administration Unit
One Exchange Square
London, EC2A 2JN

Telephone: 44 171 338 6000
Telefax: 44 171 338 6100
Telex: 8812161

Section 10. Modifications and Amendments

Any modification of the provisions of this Framework Agreement or any additional protocol to it may be made by mutual agreement of the parties to this Framework Agreement by written instrument executed on behalf of each party by an officer duly authorised to execute such modification or additional protocol.

Section 11. Effective Date

This Framework Agreement shall become effective on the date upon which the Bank dispatches to the Government of the Slovak Republic notice of: (a) its acceptance of the documentary evidence furnished to the Bank confirming that this Framework Agreement has been duly authorised, executed and adopted according to Slovak Republic legislation on behalf of the Slovak Republic and constitutes a valid and legally binding international agreement of the Slovak Republic in accordance with its terms; and (b) due approval and authorisation of this Agreement by the Assembly of Contributors of the Fund.

Section 12. Termination

This Framework Agreement may be terminated at any time upon ninety (90) days notice by any party to it. The termination of this Framework Agreement shall be without prejudice to contractual commitments to suppliers under Grant Agreements which have entered into force prior to such termination.

Section 13. Settlement of Disputes

The parties hereto shall endeavour to settle amicably all disputes or differences between them arising out of this Framework Agreement or in connection therewith. If the dispute or difference cannot be amicably settled, it shall be submitted to arbitration by an arbitral tribunal (herein called the "Arbitral Tribunal") as hereinafter provided:

- (a) Arbitration proceedings shall be instituted by a notice given by the complainant party to the respondent party.
- (b) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one by the claimant party, a second by the respondent party and the third (herein called the "Umpire") by agreement of the two arbitrators. If within thirty (30) days after notice of the institution of arbitration proceedings the respondent party fails to appoint an arbitrator, such arbitrator shall be appointed by the President of the International Court of Justice upon the request of the party instituting the proceedings. If the two arbitrators fail to agree on the Umpire within sixty (60) days after the date of the appointment of the second arbitrator, such Umpire shall be appointed by the President of the International Court of Justice.
- (c) The Arbitral Tribunal shall convene at the time and place fixed by the Umpire. Thereafter, it shall determine where and when it shall sit. The Arbitral Tribunal shall determine all questions of procedure and questions relating to its competence.
- (d) All decisions of the Arbitral Tribunal shall be reached by majority vote. The award of the Tribunal, which may be rendered even if one party defaults, shall be final and binding on both parties to the arbitration proceedings.
- (e) Service of any notice of process in connection with any proceedings under this Section or in connection with any proceedings to enforce any award rendered pursuant to this Section shall be made in the manner provided in the relevant provisions of this

Framework Agreement pertaining to notices required or permitted to be given or made hereunder.

(f) The law to be applied by the arbitral tribunal shall be public international law.

(g) The Arbitral Tribunal shall decide on the manner in which the cost of arbitration shall be borne by either or both parties to the dispute.

DONE on [November, 2001] in two (2) copies each in the English and Slovak languages, both texts being equally authentic.

In the event of any dispute or divergence of interpretation in relation to this Framework Agreement the English text shall prevail.

THE SLOVAK REPUBLIC

**EUROPEAN BANK FOR
RECONSTRUCTION AND DEVELOPMENT**

By: /S/ **Lubomir Harach**
Name: **Lubomir Harach**
Title: Minister of Economy

By: /S/**Joachim Jahnke**
Name: **Joachim Jahnke**
Title: Vice President

SCHEDULE 1 - FORM OF INDEMNITY AGREEMENT

INDEMNITY AGREEMENT

between

THE GOVERNMENT OF THE SLOVAK REPUBLIC

and

[SUPPLIER]

Article 1.

This Indemnity Agreement is entered into by the parties to it in accordance with Section 7.2 of the Framework Agreement dated [November 2001] between the European Bank for Reconstruction and Development and the Slovak Republic (hereinafter referred to as the "Framework Agreement").

Unless otherwise defined in this Agreement, capitalised terms shall have the meaning ascribed to them in the Framework Agreement.

Article 2.

With the exception of claims for damage or injury against individuals arising from their premeditated actions and gross negligence, the Government of the Slovak Republic (hereinafter referred to as the "Government") shall provide for the adequate defence of, indemnify, and shall bring no claims against [SUPPLIER] and any of its contractors, subcontractors, consultants, suppliers and subsuppliers of equipment or services of any tier and their personnel, financed through any grant agreement entered into pursuant to the Framework Agreement (hereinafter referred to as the "Beneficiaries"), in connection with third-party claims, in any court or forum or out of court, arising from activities related to the provision of goods and services financed through any such grant agreement for injury, loss or damage occurring within or outside the territory of the Slovak Republic that results from a nuclear incident at Bohunice NPP-V1, including at the Project Facilities together with buildings, facilities or installations connected therewith or auxiliary thereto and located at the site of the Bohunice NPP-V1 .

Article 3.

The beneficiaries according to Article 2 of Schedule 1 have obligations, when necessary, to keep all security measures according to the instruction of the operator of the Bohunice NPP-V1.

Article 4.

The obligations undertaken by the Government pursuant to this Agreement relating to any Nuclear Installations at the Bohunice NPP-V1 (including the Project Facilities) which it owns as of the date hereof shall remain in effect regardless of any subsequent transfer of ownership of those Nuclear Installations, and, pursuant to Article 4 of this Agreement, shall remain in effect notwithstanding the termination or expiration of this Agreement.

Any payments related to the indemnification in Article 2 of this Agreement shall be made promptly and in a convertible and freely transferable currency.

Article 5.

This Agreement shall irrevocably remain a valid obligation of the Government and shall only cease to be valid after its lawful termination.

Article 6.

(a) The Government undertakes to have any dispute, controversy or claim arising out of or relating to this Agreement, including its existence or validity, referred to and finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules. The appointing authority for the purposes of the UNCITRAL Arbitration Rules shall be the Paris, International Chamber of Commerce. The place of arbitration shall be Paris, France. Where the UNCITRAL Arbitration Rules do not provide for a particular situation the arbitral tribunal shall determine what course of action should be followed.

(b) Except to the extent of the submission to arbitration provided for in paragraph (a) above, no provision of this Agreement shall be construed as acknowledging the jurisdiction of any court or forum over third-party claims to which this Indemnity Agreement applies, nor shall it be construed as waiving the sovereign immunity of the Slovak Republic with respect to third-party claims that may be brought against it.

Article 7.

For the purposes of this Agreement "Vienna Convention" means the Vienna Convention on Civil Liability for Nuclear Damage dated 21 May 1963; and the terms "Nuclear Incident" and "Nuclear Installation" have the meanings ascribed to them in the Vienna Convention.

22.10.2001

**GOVERNMENT OF SLOVAK
REPUBLIC**

[SUPPLIER]

By: _____

Name:

Title:

By: _____

Name:

Title: